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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/147,139 11/03/93 GLUCK

A 204151

EXAMINER

LAYNO, B

ART UNIT

PAPER NUMBER

3

F3M1/0505

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3304

DATE MAILED:

05/05/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-9 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 1-8 are rejected.
5. ☒ Claims 9 is objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1835 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

Art Unit: 3304

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 and 7 are rejected under 35 U.S.C. § 102(b) as being anticipated by Tri Cards.

The Newport News article discloses a trading card produced by Tri Cards having a three-dimensional effect. The article discloses that the three-dimensional card is made from three identical cards that have been die cut and layered to create a three dimensional image. The photograph in the article seems to show that the substrate which carries the profile of the player is cut and bonded directly over and aligned with the identical picture of the player in the background picture. The substrate on which the profile of the player is on inherently has thickness and therefore inherently produces a shadow when illuminated.

Concerning claim 4, the picture in the article clearly shows information of the player on the back of the Tri Cards' card. The only difference between the information printed on the back of Tri Cards' card and the information printed on the back of the claimed invention is simply a difference in printed matter. Such differences are not patentable, see *Ex parte Breslow*, 192 USPQ 431.

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3. Claim 5 is rejected under 35 U.S.C. § 103 as being unpatentable over Tri Cards as applied to claim 1 above, and further in view of Wagner.

The patent to Wagner discloses a display pad 10 for displaying trading cards 18. The display pad comprises indicia 32 simulating a sports field. The display pad further comprises slots 16b, 16c formed by thermoplastic film 20b, 20c into which a trading card can be placed for display. The slots clearly have an orientation related to players' positions on the sports field. In view of such teaching, it would have been obvious to provide to provide to Tri Cards' cards a display pad having a sports field and slots placed specific positions related to players' positions. The slots would have been dimensioned to receive a Tri Cards' card. This modification would have made the Tri Cards cards more aesthetically pleasing.

4. Claims 6 and 8 are rejected under 35 U.S.C. § 103 as being unpatentable over Tri Cards as applied to claims 1 and 7 above, and further in view of Mayers.

The patent to Mayers teaches that it is known to attach a pin 24, 26 to the back surface of a substrate carrying a picture of a sports player in order to attach the substrate to clothing. In view of such teaching it would have been obvious to a person having ordinary skill in the art to attach a pin to the back of Tri Cards' cards. This modification would have allowed Tri

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Cards' cards to be attachable to clothing for pleasure and/or advertising purposes.

5. Claims 1-4 and 7 are rejected under 35 U.S.C. § 103 as being unpatentable over Tri Cards in view of Scheyer.

Scheyer teaches that it is known to cut a substrate having a profile of a person from a picture, and bond that substrate directly over and aligned with another picture of the person in the background in order to produce a three-dimensional affect. In view of such teaching it would have been obvious to use Scheyer's method of manufacture to make Tri Cards three-dimensional cards. This modification would have only been an alternative way of manufacturing Tri Cards' cards.

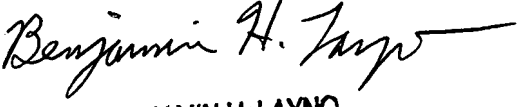
6. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The patent to Hunting discloses a game board having slots 3 for inserting and vertically mounting flat playing pieces 5.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815.

bhl
April 29, 1994


BENJAMIN H. LAYNO
PRIMARY EXAMINER
GROUP 330